

§ 983.203 Family participation.

Subpart E of part 982 of this chapter, *Selection for Tenant-based Program*, does not apply, except as it is expressly made applicable by this section.

(a) *HA selection for participation.* (1) The following provisions apply to this part: §§ 982.201, 982.202 except paragraph (b)(3), 982.203, 982.204 except paragraph (a) and (d), 982.205 except paragraph (a), 982.206, 982.207.

(2) For purposes of this part, a family becomes a participant when the family and owner execute a lease for a unit with project-based assistance.

(3) An HA may use the tenant-based waiting list, a merged waiting list, or a separate PBC waiting list for admission to the PBC program. If the HA opts to have a separate PBC waiting list, the HA may use a single waiting list for all PBC projects, or may use a separate PBC waiting list for an area not smaller than a county or municipality.

(4) Except for special admissions and admissions pursuant to paragraph (c)(3) of this section, participants must be selected from the HA waiting list. The HA must select participants from the waiting list in accordance with admission policies in the HA administrative plan.

(5) HAs authorized to use the 30-percent limit to prevent prepayments under State mortgage programs must not count families selected to occupy units in these State-assisted or subsidized projects against the local preference limit.

(6) The selection of eligible in-place families does not count against the local preference limit.

(b) *HA determination of eligibility of in-place families.* Before an HA selects a specific unit to which assistance is to be attached, the HA must determine whether the unit is occupied, and if occupied, whether the unit's occupants are eligible for assistance. If the unit is occupied by an eligible family (including a single person) and the HA selects the unit, the family must be afforded the opportunity to lease that unit or another appropriately sized, project-based assisted unit in the project without requiring the family to be placed on the waiting list. An HA may not select a unit, or enter into an Agreement

with respect to a unit, if the unit is occupied by persons who are not eligible for participation in the program.

(c) *Filling vacant units.* (1) When the owner notifies the HA of vacancies in the units to which assistance is attached, the HA will refer to the owner one or more families of the appropriate size on its waiting list. A family that refuses the offer of a unit assisted under this part 983 keeps its place on the waiting list.

(2) The owner must rent all vacant units to eligible families referred by the HA from its waiting list. The HA must determine eligibility for participation in accordance with HUD requirements.

(3) If the HA does not refer a sufficient number of interested applicants on the HA waiting list to the owner within 30 days of the owner's notification to the HA of a vacancy, the owner may advertise for or solicit applications from eligible very low-income families, or, if authorized by the HA in accordance with HUD requirements, low-income families. The owner must refer these families to the HA to determine eligibility.

(4)(i) The owner is responsible for screening and selection of tenants. The owner must adopt written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families, and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

(ii)(A) An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

(B) If the owner rejects an applicant family who believes that the rejection was the result of unlawful discrimination, the family may request the assistance of the HA in resolving the issue. The family may also file a discrimination complaint with the HUD field office or exercise other rights provided by law.

(d) *Briefing of families.* When a family is selected to occupy a project-based unit, the HA must provide the family with information concerning the tenant rent and any applicable utility allowance and a copy of the HUD-prescribed lead-based paint brochure. The

family must also, either in group or individual sessions, be provided with a full explanation of the following:

(1) Family and owner responsibilities under the lease and HAP contract;

(2) Information on Federal, State, and local equal opportunity laws;

(3) The fact that the subsidy is tied to the unit, that the family must occupy a unit constructed or rehabilitated under the program, and that a family that moves from the unit does not have any right to continued assistance;

(4) The likelihood of the family receiving a certificate after the HAP contract expires;

(5) The family's options under the program, if the family is required to move because of a change in family size or composition;

(6) Information on the HA's procedures for conducting informal hearings for participants, including a description of the circumstances in which the HA is required to provide the opportunity for an informal hearing (under §983.207), and of the procedures for requesting a hearing.

(e) *Continued assistance for a family when the HAP contract is terminated.* If the HAP contract for the unit expires or if the HA terminates the HAP contract for the unit:

(1) The HA must issue the assisted family in occupancy of a unit a certificate of family participation for assistance under the HA's certificate program unless the HA has determined that it does not have sufficient funding for continued assistance for the family, or unless the HA denies issuance of a certificate in accordance with §982.552 of this chapter.

(2) If the unit is not occupied by an assisted family, then the available funds under the ACC that were previously committed for support of the project-based assistance for the unit must be used for the HA's certificate program.

(f) *Amount of rent payable by family to owner.* The amount of rent payable by the family to the owner must be the Tenant Rent.

(g) *Lease requirements.* (1) The lease between the family and the owner must be in accordance with §983.206 and any other applicable HUD regulations and

requirements. The lease must include all provisions required by HUD and must not include any of the provisions prohibited by HUD.

(2) When offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, the owner may require the applicant to agree (and may incorporate this agreement in the Lease) to move to a non-accessible unit when available.

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§983.204 Maintenance, operation and inspections.

(a) Section 982.404 of this chapter, *Maintenance: Owner and family responsibility; HA remedies*, pertaining to owner responsibilities and HA remedies, does not apply. Section 982.405 of this chapter, *HA periodic unit inspection*, and §982.406 of this chapter, *Enforcement of HQS*, do not apply.

(b) *Maintenance and operation.* The owner must provide all the services, maintenance and utilities as agreed under the HAP contract, subject to abatement of housing assistance payments or other applicable remedies if the owner fails to meet these obligations.

(c) *Periodic inspection.* In addition to the inspections required prior to execution of the HAP contract, the HA must inspect or cause to be inspected each dwelling unit under HAP contract at least annually and at such other times as may be necessary to assure that the owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The HA must take into account complaints and any other information coming to its attention in scheduling inspections.

(d) *Units not decent, safe and sanitary.* If the HA notifies the owner that the unit(s) under HAP contract are not being maintained in decent, safe and sanitary condition and the owner fails to take corrective action within the time prescribed in the notice, the HA